

State of California
AIR RESOURCES BOARD

Resolution 04-23

July 22, 2004

Agenda Item No.: 04-7-3

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board ("ARB" or "Board") to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the Board by law;

WHEREAS, on August 27, 1998, the Board identified diesel exhaust particulate matter as a toxic air contaminant pursuant to article 3 (commencing with section 39650), chapter 3.5, part 2, division 26 of the Health and Safety Code;

WHEREAS, in identifying diesel exhaust particulate matter as a toxic air contaminant, the Board determined that there is not sufficient scientific evidence to support identification of a threshold level below which no significant adverse health effects are anticipated, as codified in title 17, California Code of Regulations, section 93000);

WHEREAS, pursuant to article 3 (commencing with section 39650), chapter 3.5, part 2, division 26 of the Health and Safety Code, the Board also identified other toxic air contaminants associated with heavy-duty motor vehicle exhaust including: benzene on January 25, 1985, dioxins and dibenzofurans on August 21, 1986, formaldehyde on March 12, 1992, 1,3-butadiene on July 9, 1992, and acetaldehyde, acrolein, and benzo[a]pyrene on April 8, 1993 (hereinafter designated as "other toxic air contaminants");

WHEREAS, pursuant to section 39665 of the Health and Safety Code, ARB staff prepared, and on September 28, 2000, the Board approved, a comprehensive risk reduction plan to significantly reduce diesel exhaust particulate matter emissions from diesel-fueled engines and vehicles (Risk Reduction Plan);

WHEREAS, the Office of Environmental Health Hazard Assessment listed under section 39669.5(a) of the Health and Safety Code diesel exhaust particulate matter, acrolein, benzo[a]pyrene, and dioxins and dibenzofurans as possibly causing infants and children to be especially susceptible to illness;

WHEREAS, sections 39658, 39665, 39666, and 39667 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCM) for substances identified as toxic air contaminants in accordance with specified criteria;

WHEREAS, in fulfilling the requirements of the aforementioned sections, the Board is required to consider the adoption of an airborne toxic control measure

for sources, including mobile sources, to achieve the maximum possible reduction in public exposure based on its prior determination not to specify a threshold exposure level for diesel exhaust particulate matter under section 39662 of the Health and Safety Code;

WHEREAS, an airborne toxic control measure for an existing source, including a mobile source, developed pursuant to sections 39666 and 39667 of the Health and Safety Code is required to be based on application or utilization of the best available control technologies or more effective control methods, unless the Board determines, based on an assessment of risk, that an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health;

WHEREAS, the Risk Reduction Plan identified diesel-fueled heavy-duty motor vehicles as a source of diesel exhaust particulate matter;

WHEREAS, with the exception of electric-powered engines, all heavy-duty diesel-fueled vehicles emit diesel exhaust particulate matter or other toxic air contaminants;

WHEREAS, sections 43013(b) and 43018 provide the ARB with additional authority to adopt emission standards and regulations for vehicular and other mobile sources, including diesel vehicles and offroad or nonvehicle engine categories;

WHEREAS, the Board's adoption of the school bus idling regulation, section 2480 of the Health and Safety Code, on December 12, 2002, limits idling of school buses and heavy-duty vehicles at or near schools;

WHEREAS, there are no other current state laws and few written policies that specifically and effectively limit all diesel-fueled commercial motor vehicle idling statewide;

WHEREAS, modeling analyses show that potential cancer risk increases as the number of diesel-fueled, heavy-duty vehicles, and idling time increases;

WHEREAS, to reduce emissions, exposure, and associated potential cancer risk, the Risk Reduction Plan recommended idling restrictions to limit the amount of time heavy-duty vehicles are allowed to operate while not performing useful work such as moving a vehicle or operating essential equipment;

WHEREAS, to augment the general information and recommendations provided in the Risk Reduction Plan, the ARB staff worked with affected private industry and related associations, State and local public agencies, and the public to prepare a report, entitled the Initial Statement of Reasons for Proposed Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling (Initial Statement of Reasons);

WHEREAS, the Initial Statement of Reasons further identified the need for, and appropriate degree of, control of diesel exhaust particulate matter and other toxic air contaminants associated with exhaust from the idling of diesel-fueled, commercial motor vehicles, as earlier addressed in the Risk Reduction Plan required by Health and Safety Code section 39665(a);

WHEREAS, the Initial Statement of Reasons further discusses, to the extent data could reasonably be made available, the factors specified in Health and Safety Code section 39665(b), including: estimates of emissions, exposure, and potential cancer health impacts from diesel-fueled commercial motor vehicle idling operations, alternatives to primary engine idling, potential environmental impacts and cost impacts for the motor carriers of affected vehicles and for State and local public agencies for the implementation of, and compliance with, the proposed ATCM;

WHEREAS, concepts and a draft of the proposed ATCM were discussed at a public consultation meeting in December 2003, and at four public workshops held between January 2004 and May 2004;

WHEREAS, in accordance with Health and Safety Code section 39667, staff evaluated various alternatives to primary engine idling, including automatic vehicle shut-off, auxiliary power systems, on-board and off-board truck stop electrification;

WHEREAS, in accordance with Health and Safety Code 39667, staff concluded that an idle limiting requirement for diesel-fueled commercial motor vehicles would reduce diesel exhaust particulate matter and other toxic air contaminant emissions at locations such as rest stops, truck stops and plazas, alternate rest areas, distribution vehicle collection points, and maintenance facilities, and more effectively and safely control emissions, reduce exposure, and protect health than any available control technology;

WHEREAS, complying with the proposed ATCM is expected to generate cost savings through reduced fuel usage and maintenance;

WHEREAS, the costs associated with implementation and enforcement of the proposed ATCM are expected to be absorbed into existing ARB and other State and local agency budgets and additional staffing is not expected to be required;

WHEREAS, limiting idling of diesel-fueled commercial motor vehicles will reduce drivers', near-by workers', and residents' exposure to, and associated cancer and other adverse health effects risk from, diesel exhaust particulate matter and other toxic air contaminants;

WHEREAS, the Board recognizes the importance of addressing diesel exhaust particulate matter from auxiliary power systems and sleeper berth equipped vehicles idling during extended rest periods, but that these issues cannot be adequately addressed in this rule making time frame;

WHEREAS, the Board is committed to addressing these outstanding issues expeditiously in a future rulemaking process;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, in furtherance of the notice of requirements for adopting the Risk Reduction Plan under Health and Safety Code section 39665(c), the Initial Statement of Reasons was made available for public review and comment 45 days prior to the public hearing to consider the proposed ATCM;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, in consideration of the Initial Statement of Reasons, written comments, and public testimony it has received, the Board finds that:

Idling of diesel fueled commercial motor vehicles may cause potentially harmful concentrations of diesel exhaust particulate matter and other toxic air contaminants to be entrained in the air and these toxic air contaminants may pose a significant health risk to members of the public;

Existing federal, State, and local regulations do not sufficiently protect the public health from diesel exhaust particulate matter and other toxic air contaminant emissions associated with idling of diesel-fueled commercial motor vehicles;

The proposed ATCM's idle limiting requirement for diesel-fueled commercial motor vehicles would reduce unnecessary diesel exhaust particulate matter and other toxic air contaminant emissions, significantly reduce such emissions at locations such as rest stops, truck stops and plazas, alternate rest areas, distribution vehicle collection points, and maintenance facilities, and more effectively and safely control emissions, reduce exposure, and protect health than any available control technology in accordance with Health and Safety Code section 39667;

The proposed ATCM would reduce exposure to potential diesel exhaust particulate matter and other toxic air contaminants and associated cancer and other adverse health effects in all communities in which idling of diesel-fueled commercial motor vehicles now occurs;

The economic impacts of the proposed ATCM have been analyzed as required by California law, and the conclusions and supporting

documentation for this analysis are set forth in the Initial Statement of Reasons;

The benefits of the proposed ATCM to public health and the environment justify the minimal costs of compliance, implementation, and enforcement; and

No alternatives considered or that have otherwise been identified and brought to the attention of the ARB would be more effective at carrying out the purpose for which the ATCM is proposed, or would be as effective and less burdensome to the affected private businesses and public agencies than the proposed ATCM.

WHEREAS, the Board further finds, in accordance with the Health and Safety Code section 39650(e) that:

While absolute and undisputed scientific evidence may not be available to determine the exact risk from diesel exhaust particulate matter or other toxic air contaminant emissions from idling of diesel-fueled commercial motor vehicles, it is necessary to take action to protect public health and the environment.

WHEREAS, the Board further finds that the ATCM would be consistent with ARB's environmental justice policy by reducing health risks from diesel exhaust in all communities, including those with low-income and minority populations;

WHEREAS, pursuant to the requirements of the California Environmental Quality Act and the Board's regulation, the Board further finds that:

Based on its independent judgement and analysis of the whole record before it, composed of all materials in the rulemaking record that is available at the Board's offices, the proposed ATCM will not have a significant effect on the environment; and

The proposed ATCM is necessary in order to protect public health by reducing diesel exhaust particulate matter and other toxic air contaminant emissions from idling of diesel-fueled commercial motor vehicles, and by significantly reducing such emissions.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendment of title 13, California Code of Regulations, Chapter 10 - Mobile Source Operational Controls, Article 1 - Motor Vehicles, to add a new Section 2485 therein, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Air Resources Board staff to:

Coordinate the education of affected owners and operators, and the public with the participation of other agencies and interested parties, including, but not limited to, the California Highway Patrol;

As the primary enforcement agency, coordinate enforcement with other State and local agencies, such as the California Highway Patrol, local peace officers, and air quality management and air pollution control districts, including monitoring and targeting areas of potentially high noncompliance including within environmental justice communities;

In recognizing the significance of diesel exhaust particulate matter emissions, to expeditiously return to the Board no later than September 2005, with a proposal targeting an effective date of January 1, 2009, that addresses emissions from diesel-fueled vehicles that idle during extended driver rest periods, and from operation of diesel-fueled auxiliary power systems; and

Return to the Board with a compliance evaluation report, potentially at the same time as the proposal above, including a review of queing controls at ports.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the regulations set forth in Attachment A, with the modifications set forth in Attachment B, in accordance with the Board's direction, and to make such other conforming modifications as may be appropriate, after making the modified regulatory language available for public comment for a period of at least 15 days, as required by Government Code section 11346.8, provided that the Executive Officer shall consider such written comments regarding the modification as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if she determines that this is warranted.

I hereby certify that the above is
a true and correct copy of
Resolution 04-23, as adopted by
the Air Resources Board.

Lori Andreoni, Clerk of the Board

Resolution 04-23

July 22, 2004

Identification of Attachments to the Board Resolution

Attachment A: Proposed Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling (chapter 10, article 1, section 2485, title 13, California Code of Regulations) as set forth in Appendix A to the Initial Statement of Reasons, released June 4, 2004.

Attachment B: Staff's Suggested Modifications to the Proposed Regulation Order, presented at the July 22, 2004 Board Hearing